

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

ANDREW CORZO, SIA HENRY, ALEXANDER  
LEO-GUERRA, MICHAEL MAERLENDER,  
BRANDON PIYEVSKY, BENJAMIN SHUMATE,  
BRITTANY TATIANA WEAVER, and CAMERON  
WILLIAMS, individually and on behalf of all others  
similarly situated,

*Plaintiffs,*

v.

BROWN UNIVERSITY, CALIFORNIA  
INSTITUTE OF TECHNOLOGY, UNIVERSITY  
OF CHICAGO, THE TRUSTEES OF COLUMBIA  
UNIVERSITY IN THE CITY OF NEW YORK,  
CORNELL UNIVERSITY, TRUSTEES OF  
DARTMOUTH COLLEGE, DUKE UNIVERSITY,  
EMORY UNIVERSITY, GEORGETOWN  
UNIVERSITY, THE JOHNS HOPKINS  
UNIVERSITY, MASSACHUSETTS INSTITUTE  
OF TECHNOLOGY, NORTHWESTERN  
UNIVERSITY, UNIVERSITY OF NOTRE DAME  
DU LAC, THE TRUSTEES OF THE UNIVERSITY  
OF PENNSYLVANIA, WILLIAM MARSH RICE  
UNIVERSITY, VANDERBILT UNIVERSITY, and  
YALE UNIVERSITY,

*Defendants.*

**Civil Action No. 1:22-cv-00125**

**Hon. Matthew F. Kennelly**

**CERTAIN DEFENDANTS' MOTION TO FILE UNDER SEAL CERTAIN EXHIBITS IN  
SUPPORT OF THEIR OPPOSITION TO PLAINTIFFS' MOTION TO COMPEL**

Pursuant to the Confidentiality Order in this case (ECF No. 254) and Local Rule 26.2, Defendants Cornell University, Trustees of Dartmouth College, Georgetown University, Northwestern University, University of Notre Dame du Lac, The Trustees of the University of Pennsylvania, William Marsh Rice University, and Vanderbilt University (collectively, "Defendants") respectfully request that the Court grant this Motion to File Under Seal Exhibits A, B, C, D, E, F, G, and H to their Opposition to Plaintiffs' Motion to Compel. ECF Nos. 451-2 to

451-9. In support of this Motion, Defendants state as follows:

**BACKGROUND**

1. On October 26, 2022, the Court entered an Order (ECF No. 231) acknowledging that good cause existed for the entry of a Confidentiality Order providing for the redaction of Personally Identifiable Information (“PII”) under 20 U.S.C. §§ 1232g(a)(4)(A) and 1232g(b)(1) of the Family Educational Rights and Privacy Act (“FERPA”). This Confidentiality Order “allow[ed] Defendants to safeguard the continuing confidentiality of Education Records that may be produced in this action.” ECF No. 231 at 2.

2. On November 22, 2022, the Court entered the final Agreed Confidentiality Order (ECF No. 254) outlining what materials may be designated as containing Confidential Information and how those materials must be treated. Under the Confidentiality Order, a party may designate documents as “Confidential” or “Attorneys’ Eyes Only.” *Id.* ¶¶ 2(a)-(b). Documents may be designated “Confidential” where they contain “(a) information prohibited from disclosure by statute; (b) information that reveals trade secrets; (c) research, technical, competitive, commercial, insurance or financial information that the party has maintained as confidential; (d) medical information concerning any individual; (e) personal identity information; (f) income tax returns (including attached schedules and forms), W-2 forms and 1099 forms; (g) personnel or employment records of a person; or (h) any document protected under the Family Educational Rights and Privacy Act (“FERPA”), including the application, financial aid, or educational records of any applicant, student, or former student.” *Id.* ¶ 2(a). Documents may be designated as “Attorneys’ Eyes Only” where they contain “highly sensitive confidential information and disclosure to another party or third party would result in specific demonstrable harm” to the disclosing party. *Id.* ¶ 2(b). This designation was intended to strictly limit access to such

documents to a small universe of individuals, including the Court, counsel, and contractors, consultants, and court reporters who require access. *Id.* ¶ 6(c).

3. On September 25, 2023, Plaintiffs filed a Motion to Compel Defendants to Provide FERPA Notices Pursuant to This Court’s Order Regarding FERPA and the Production of Certain Document and Information (“Plaintiffs’ Motion”) (ECF No. 443).

4. On October 4, 2023, Defendants filed their Opposition to Plaintiffs’ Motion to Compel. ECF No. 451. Exhibits A, B, C, D, E, F, G, and H to Defendants’ Opposition contain the names of students and their parents and/or grandparents, which are PII protected under FERPA. ECF Nos. 451-2 to 451-9. Exhibits A, B, F, G, and H also contain information describing the parents and/or grandparents. Defendants accompanied their Opposition with a motion to seal, *see* ECF No. 452, which Defendants now withdraw and replace with this Motion, in light of the Court’s statements on the record during the October 5, 2023 hearing. Oct. 5, 2023 Hr’g Tr. at 22:24-24:18.

### **LEGAL STANDARD**

5. The Seventh Circuit has long recognized that “[i]nformation that affects the disposition of litigation belongs in the public record *unless* a statute or privilege justifies nondisclosure,” and documents containing confidential information may be sealed. *United States v. Foster*, 564 F.3d 852, 853 (7th Cir. 2009) (emphasis added). A court may enter an order directing a document or portion of a document be shielded from public disclosure upon a showing of “good cause.” *See, e.g., Bond v. Utreras*, 585 F.3d 1061, 1074 (7th Cir. 2009).

### **DISCUSSION**

6. “[A] court may for good cause shown enter an order directing that one or more documents be filed under seal.” Loc. R. 26.2(b). Defendants move to place Exhibits A, B, C, D,

E, F, G, and H to their Opposition to Plaintiffs’ Motion under seal as they implicate students’ Education Records that Defendants are obligated under FERPA to protect from public disclosure. 20 U.S.C. § 1232g(b)(2) (finding a lack of compliance under FERPA where an institution has a “practice of releasing, or providing access to, any personally identifiable information in education records”). Exhibits A, B, C, D, E, F, G, and H contain the names of students and their parents and/or grandparents. Exhibits A, B, F, G, and H also contain information describing the parents and/or grandparents. *See* 34 C.F.R. § 99.3 (providing that, under FERPA, PII “includes, but is not limited to . . . [o]ther information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty”). Defendants have not made the sensitive information contained within Exhibits A, B, C, D, E, F, G, and H to the Opposition publicly available, and this information should remain under seal so as to protect the privacy interests of the students and families encompassed by FERPA, which the Court provided for in its FERPA Order and Confidentiality Order. ECF No. 231; ECF No. 254.

7. Defendants previously filed under seal the entirety of their Opposition, and the Declaration of David Gringer in Support of their Opposition and all the exhibits cited therein, in compliance with Local Rule 26.2. ECF No. 451; ECF Nos. 451-1 to 451-12. As required by Local Rule 26.2(c), Defendants will now file a “public-record” version of their Opposition to Plaintiffs’ Motion, the Declaration of David Gringer, and the cited exhibits, with Exhibits A, B, C, D, E, F, G, and H under seal.

### **CONCLUSION**

For the foregoing reasons, Defendants respectfully request that the Court grant this Motion to Seal and enter an order permitting Defendants to file sealed versions of Exhibits A, B, C, D, E,

F, G, and H to their Opposition, and to file a “public-record” version of their Opposition to Plaintiffs’ Motion, the Declaration of David Gringer, and exhibits with Exhibits A, B, C, D, E, F, G, and H redacted.

Dated: October 12, 2023

Respectfully submitted,

By: /s/ Norman Armstrong  
Norman Armstrong  
Christopher C. Yook  
KING & SPALDING LLP  
1700 Pennsylvania Avenue, NW  
Suite 200  
Washington, D.C. 20006  
Tel.: 202-626-8979  
narmstrong@kslaw.com  
cyook@kslaw.com

By: /s/ Terri L. Mascherin  
Terri L. Mascherin  
Reid J. Schar  
JENNER & BLOCK LLP  
353 N. Clark Street,  
Chicago, IL 60654-3456  
Tel.: 312-222-9350  
tmascherin@jenner.com  
rschar@jenner.com

Emily T. Chen  
KING & SPALDING LLP  
1185 Avenue of the Americas  
34th Floor  
New York, NY 10036  
Tel.: 212-556-2224  
echen@kslaw.com

Ishan K. Bhabha  
Douglas E. Litvack  
Lauren J. Hartz  
JENNER & BLOCK LLP  
1099 New York Avenue, NW  
Suite 900  
Washington, DC 20001-4412  
Tel.: 202-637-6327  
ibhabha@jenner.com  
dlitvack@jenner.com  
lhartz@jenner.com

Zachary T. Fardon  
KING & SPALDING LLP  
110 N Wacker Drive  
Suite 3800  
Chicago, IL 60606  
Tel.: 312-764-6960  
zfardon@kslaw.com

*Counsel for Defendant Trustees of Dartmouth College*

*Counsel for Defendants Cornell University and William Marsh Rice University*

By: /s/ Scott D. Stein  
Scott D. Stein  
Kathleen L. Carlson  
Benjamin R. Brunner  
SIDLEY AUSTIN LLP  
1 South Dearborn Street  
Chicago, IL 60603  
Tel.: 312-853-7520  
ssteins@sidley.com  
kathleen.carlson@sidley.com  
bbrunner@sidley.com

By: /s/ Britt M. Miller  
Britt M. Miller  
Daniel T. Fenske  
Megan E. Stride  
MAYER BROWN LLP  
71 South Wacker Drive  
Chicago, IL 60606

Tel.: 312-783-0600  
bmiller@mayerbrown.com  
dfenske@mayerbrown.com  
mstride@mayerbrown.com

*Counsel for Defendant Georgetown University*

By: /s/ Robert A. Van Kirk  
Robert A. Van Kirk  
Jonathan B. Pitt  
Sarah F. Kirkpatrick  
Matthew D. Heins  
William J. Donnelly  
Cole T. Wintheiser  
WILLIAMS & CONNOLLY LLP  
680 Maine Avenue SW  
Washington, D.C. 20024  
Tel.: 202-434-5000  
rvankirk@wc.com  
skirkpatrick@wc.com  
jpitt@wc.com  
mheins@wc.com  
cwintheiser@wc.com

James Peter Fieweger  
MICHAEL BEST & FRIEDRICH LLP  
444 West Lake Street  
Suite 3200  
Chicago, IL 60606  
Tel.: 312-222-0800  
jpfieweger@michaelbest.com

*Counsel for Defendant University of Notre  
Dame du Lac*

By: /s/ J. Mark Gidley  
J. Mark Gidley  
WHITE & CASE LLP  
701 Thirteenth Street, NW  
Washington, DC 20005-3807  
Tel.: 202-626-3600  
mgidley@whitecase.com

Robert A. Milne  
David H. Suggs  
WHITE & CASE LLP

*Counsel for Defendant Northwestern  
University*

By: /s/ David Gringer  
David Gringer  
Alan Schoenfeld  
WILMER CUTLER PICKERING HALE  
AND DORR LLP  
7 World Trade Center  
250 Greenwich Street  
New York, NY 10007  
212-230-8800  
david.gringer@wilmerhale.com  
alan.schoenfeld@wilmerhale.com

Seth Waxman  
WILMER CUTLER PICKERING HALE  
AND DORR LLP  
1875 Pennsylvania Avenue NW  
Washington, DC 20006  
Tel.: 202-663-6800  
seth.waxman@wilmerhale.com

Daniel Martin Feeney  
Edward W. Feldman  
MILLER SHAKMAN LEVINE & FELDMAN  
LLP  
180 North LaSalle Street  
Suite 3600  
Chicago, IL 60601  
Tel.: 312-263-3700  
dfeeney@millershakman.com  
efeldman@millershakman.com

*Counsel for Defendant The Trustees of the  
University of Pennsylvania*

1221 Avenue of the Americas  
New York, NY 10020-1095  
Tel.: 212-819-8200  
rmilne@whitecase.com  
dsuggs@whitecase.com

Kelly Newman  
WHITE & CASE LLP  
75 State Street  
Boston, MA 02109  
Tel.: 617-979-9329  
kelly.newman@whitecase.com

*Counsel for Defendant Vanderbilt University*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 12, 2023, the foregoing document was served on all counsel of record by email or using the CM/ECF system, which will send notice of this filing to all parties, as set forth below:

Robert D. Gilbert  
Elpidio Villarreal  
Robert S. Raymar  
Steven Magnusson  
**GILBERT LITIGATORS &  
COUNSELORS, P.C.**  
11 Broadway, Suite 615  
New York, NY 10004  
Phone: (646) 448-5269  
rgilbert@gilbertlitigators.com  
pdivillarreal@gilbertlitigators.com  
rraymar@gilbertlitigators.com  
sschuster@gilbertlitigators.com  
amarquez@gilbertlitigators.com  
smagnusson@gilbertlitigators.com

Devin “Vel” Freedman  
Edward J. Normand  
Peter Bach-y-Rita  
**FREEDMAN NORMAND FRIEDLAND LLP**  
99 Park Avenue  
Suite 1910  
New York, NY 10016  
Tel: 646-970-7513  
vel@fnf.law  
tnormand@fnf.law  
pbachyrita@fnf.law

Eric L. Cramer  
Caitlin G. Coslett  
**BERGER MONTAGUE PC**  
1818 Market Street, Suite 3600  
Philadelphia, PA 19103  
Tel: 215-875-3000  
ecramer@bm.net  
ccoslett@bm.net



Richard Schwartz  
**BERGER MONTAGUE PC**  
1720 W Division  
Chicago, IL 60622  
Tel: 773-257-0255  
rschwartz@bm.net

Daniel J. Walker  
Robert E. Litan  
Hope Brinn  
**BERGER MONTAGUE PC**  
2001 Pennsylvania Avenue, NW  
Suite 300  
Washington, DC 20006  
Tel: 202-559-9745  
rlitan@bm.net  
dwalker@bm.net  
hbrinn@bm.net

*/s/ David Gringer*

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David Gringer